IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12991 of 2004

Between:

G. Sankara Rao, S/o. Subbaiah, Indian,
R/o. Kavuluru Village, G. Konduru Mandal, Krishna District.

..... PETITIONER

AND
1 The Asst. Commissioner, Endowments Department,
Vijayawada, Krishna District.
2 The Executive Officer, Sri Santhana Venu Gopala & Anjaneya Swamy Vari Devasthanam, Kavuluru Village, G. Konduru Mandal, Krishna District.
3 The Person-in-Management, Sri Santhana Venu Gopala & Anjaneya Swamy Vari Devasthanam, Kavuluru Village, G. Konduru Mandal, Krishna District.
4 The Board of Trustees, Sri Santhana Venu Gopala & Anjaneya Swamy Vari Devasthanam, Kavuluru Village, G. Konduru Mandal, Krishna District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly, one in the nature of WRIT OF MANDAMUS declaring the action of Respondents in conducting the open auction in respect of awarding lease hold rights of the land, to an extent of Ac. 17.70 Cts in R.S.No. 376, at Kavuluru Village, G. Konduru Mandal, Krishna District, without any prior notice to the petitioner herein as illegal, arbitrary and in violation of the principle of natural justice, contrary to Section 82(1) of The A.P. Charitable and Hindu Religious and Endowments Act, 1987 (A.P. Act, 30 of 1997) and Article 21 of Constitution of India, and consequently set aside the same and to pass

Counsel for the Petitioner: MR.KANAKAMEDALA RAVINDRA KUMAR

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: Smt. Indrani

Counsel for the Respondent Nos.2 and 4: None appeared

The Court made the following ORDER:

It is represented by the learned counsel for both the parties that having regard to the orders passed in similar case in W.P.No.12422 of 2003 dated 26-6-2003, this writ petition also can be disposed of in the same terms. The order in W.P.No.12422 of 2003 reads as follows:

> Taking into account the contentions of the learned counsel for the parties, the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and the Rules framed in G.O.Ms.No.379, dated 11.03.2003, the Writ Petition is disposed of with the following directions.
>
> > (a) If the petitioner claims the status of a landless poor, it shall be open to him to approach the concerned Assistant Commissioner of Endowments, with an appropriate application, within two weeks from the date of which the copy of the order is furnished to him by the Court. On such application being made, the concerned Assistant Commissioner shall decide the matter in accordance with the guidelines and conditions laid down in the explanation to Section 82 of the Act 30/87 duly putting the tenant as well as the temple on notice; and pass appropriate orders within one month from the date of presentation of the application. This exercise shall not be necessary, if the status of such tenants was already decided or where no such application is made. For the purpose of deciding this question, the status of the actual lessee of the land shall be taken into account. The fact that the family of such lessee went through partition or other such factors shall not have any bearing on the question.
> >
> > (b) If the tenant is declared as landless poor as defined in the explanation to Section 82, through an order by the Assistant Commissioner of Endowments, such tenant shall be entitled to be continued as lessee at the rates fixed by verification or by holding auction; for an extent of land, nor exceeding the limits stipulated in the explanation. Except where such person emerges as the highest bidder, he shall be liable to surrender the remaining land.
> >
> > (c) The question of sale of any land belonging to temple would arise, if only, a decision in that regard is taken by

the concerned Trust Board for the genuine needs of the temple and subject to approval by the authorities prescribed under the Act. If the decision to sell any land is taken in the manner stipulated above in the interests of the concerned temple, the right of the tenant declared as landless poor to purchase such land, as contemplated in the rules issued in G.O.Ms.No.379, dated 11.03.2003 would arise, for an extent not exceeding the limits stipulated under the explanation to Section 82 of the Act.

Pending determination of the status of the tenant by the Assistant Commissioner, no steps shall be taken to dispossess the tenant. The concerned authority shall fix the rate of lease for the land by collecting the necessary information or by inviting bids. The figure so arrived at shall hold good for the current agricultural season. In case the existing tenant is not agreeable to pay such amount, it shall be open to the authorities of the temple as well as the Endowments Department to resume the land and put it to auction. Even if any auctions are held, by the time of the orders are communicated, the same shall not be confirmed till the exercise indicated above is completed.

Following the same, the writ petition is accordingly disposed of. No costs.

B.Prakash Rao, J

Date: 17.08.2004

va/js

To

1 The Asst. Commissioner, Endowments Department, Vijayawada, Krishna District.
2 The Executive Officer, Sri Santhana Venu Gopala & Anjaneya Swamy Vari Devasthanam, Kavuluru Village, G. Konduru Mandal, Krishna District.
3 The Person-in-Management, Sri Santhana Venu Gopala & Anjaneya Swamy Vari Devasthanam, Kavuluru Village,

G. Konduru Mandal, Krishna District.
4 The Board of Trustees, Sri Santhana Venu Gopala & Anjaneya
Swamy Vari Devasthanam, Kavuluru Village, G. Konduru
Mandal, Krishna District.
5 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad(OUT)

6 Two CD Copies